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9 Attorneys for United States of America

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13 UNITED STATES OF AMERICA,  
14 v.  
15 JOSE FARIAS BARAJAS and  
VICTOR MANUEL RODRIGUEZ,  
16 Defendants.  
17  
18

No. 12-CR-0723-EJD

STIPULATION AND ~~PROPOSED~~  
PROTECTIVE ORDER RE: DISCOVERY

SAN JOSE VENUE

19 With the agreement of the parties, and with the consent of defendants, the Court enters  
20 the following Order:

21 Defendants are charged with: (1) Conspiracy to Distribute and Possess with Intent to  
22 Distribute a Controlled Substance, in violation of Title 21, United States Code, Section 846; and  
23 (2) Possession with Intent to Distribute and Distribution of a Controlled Substance, in violation  
24 of Title 21, United States Code, Section 841(a)(1). Pursuant to defendants' requests, the United  
25 States will produce copies of the audio and video recordings of the defendants (the  
26 "RECORDINGS") to defense counsel, in lieu of making them available for review only,  
27 pursuant to the following restrictions:  
28

PROTECTIVE ORDER  
CR-12-0723-EJD

**FILED**

NOV 30 2012

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

- 1           c)     they agree that they will only access the RECORDINGS and information  
2                     for the purposes of preparing a defense for defendant;  
3           d)     they understand that failure to abide by this Order may result in sanctions  
4                     by this Court.

5 Counsel for defendant shall either (1) send signed copies of the Order to counsel for the United  
6 States or (2) file signed copies of the Order, *ex parte* and under seal. The United States shall  
7 have no access to the signed copies filed under seal without further order of the Court.

8           5.     No other person may be allowed to examine the RECORDINGS without further  
9 order of the Court. Examination of the RECORDINGS shall be done in a secure environment  
10 which will not expose the materials to other individuals not listed above.

11          6.     The RECORDINGS may be duplicated to the extent necessary to prepare the  
12 defense of this matter. Any duplicates will be treated as originals in accordance with this Order.

13          7.     If the RECORDINGS are attached to any pleadings, the RECORDINGS shall be  
14 filed or lodged under seal.

15          8.     The defense team shall return the RECORDINGS (and any duplicate copies of the  
16 same) to the United States fourteen calendar days after any one of the following events,  
17 whichever occurs latest in time: dismissal of all charges against defendant; defendant's acquittal  
18 by court or jury; or the conclusion of any direct appeal.

19          9.     After the conclusion of proceedings in the district court or any direct appeal in the  
20 above-captioned case, the United States will maintain a copy of the RECORDINGS. The United  
21 States will maintain the RECORDINGS until the time period for filing a motion pursuant to 28  
22 U.S.C. § 2255 has expired. After the statutory time period for filing such a motion has expired,  
23 the United States may destroy the RECORDINGS. In the event defendant is represented by  
24 counsel and files a motion pursuant to 28 U.S.C. § 2255, the United States will provide that  
25 counsel with a copy of the RECORDINGS under the same restrictions as trial and direct appeal  
26 defense counsel. Defendant's attorney in any action under 28 U.S.C. § 2255 shall return the  
27 same materials fourteen calendar days after the district court's ruling on the motion or fourteen  
28 calendar days after the conclusion of any direct appeal of the district court's denial of the

1           1.       Except when being actively examined for the purpose of the preparation of the  
2 defense of defendant, the RECORDINGS shall be maintained in a locked, safe, and secure  
3 drawer, cabinet, or safe or password-protected electronic device (e.g., computer, memory stick),  
4 which is accessible only to defense counsel, members of his or her law firm who are working  
5 with him or her to prepare defendant's defense, and his or her investigator(s) and/or expert(s).  
6 Defense counsel, members of his or her law firm, defendant, and the investigator(s) and/or  
7 expert(s) shall not permit any person access of any kind to the RECORDINGS except as set forth  
8 below.

9           2.       The following individuals may examine the RECORDINGS for the sole purpose  
10 of preparing the defense of defendant and for no other purpose:

- 11           a)       Counsel for defendant;
- 12           b)       Members of defense counsel's law office or other individuals working  
13               with defense counsel who are assisting with the preparation of defendant's  
14               defense;
- 15           c)       Defendant, but only in the presence of defense counsel or another  
16               authorized person listed in this paragraph, (defendant may not take or  
17               maintain the RECORDINGS or copies thereof);
- 18           d)       Investigators or experts retained by defendant to assist in the defense of  
19               this matter.

20 If defense counsel determines that additional persons are needed to review the RECORDINGS,  
21 he or she must obtain a further order of the Court before allowing any other individual to review  
22 the materials.

23           3.       A copy of this Order shall be maintained with the RECORDINGS at all times.

24           4.       All individuals, other than defense counsel and defendant, who receive access to  
25 the RECORDINGS, prior to receiving access to the materials, shall sign a copy of this Order  
26 acknowledging that:

- 27           a)       they have reviewed the Order;
- 28           b)       they understand its contents;

1 motion, whichever is later.

2  
3 STIPULATED:

4  
5 DATED: November 16, 2012

/s/  
\_\_\_\_\_  
ROBERT CARLIN  
Attorney for Defendant Jose Barajas

6  
7  
8 DATED: November 16, 2012

/s/  
\_\_\_\_\_  
MARK FLANAGAN  
Attorney for Defendant Victor Rodriguez

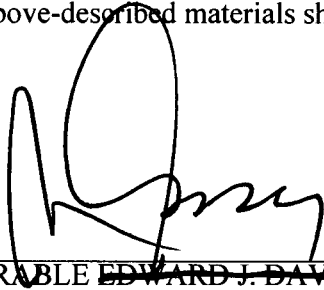
9  
10  
11 DATED: November 16, 2012

MELINDA HAAG  
United States Attorney

12  
13 /s/  
\_\_\_\_\_  
STEPHEN J. MEYER  
DANIEL R. KALEBA  
Assistant United States Attorneys

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15  
16 IT IS SO ORDERED that disclosure of the above-described materials shall be restricted  
17 as set forth above.

18  
19 DATED: November 30, 2012

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\_\_\_\_\_  
HONORABLE EDWARD J. DAVILA  
United States District Judge

22 *Magistrate*  
23  
24 **HOWARD R. LLOYD**